

CHAPTER 132

H.B. No. 248

An Act relating to missing children and missing persons.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subtitle B of Title 3, Human Resources Code, is amended by adding Chapter 74 to read as follows:

CHAPTER 74. MISSING CHILDREN AND MISSING PERSONS

Sec. 74.001. DEFINITIONS. In this chapter:

- (1) "Child" means a person under 17 years of age.*
- (2) "Missing person" means a person 17 years old or older whose disappearance is possibly not voluntary.*
- (3) "Missing child" means a child whose whereabouts are unknown to the child's legal custodian, the circumstances of whose absence indicate that the child did not voluntarily leave the care and control of the custodian, and the taking of whom was not authorized by law.*
- (4) "Missing child" or "missing person" also includes a person of any age who is missing and:
 - (A) is under proven physical or mental disability or is senile, and because of one or more of these conditions is subject to immediate danger or is a danger to others;*
 - (B) is in the company of another person under circumstances indicating that the missing child's or missing person's safety is in doubt; or*
 - (C) is unemancipated as defined by the law of this state.**

(5) "Missing child or missing person report" or "report" means information that is:

(A) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(B) about a child or missing person whose whereabouts are unknown to the reporter and who is alleged in the form by the reporter to be missing.

(6) "Legal custodian of a child" means a parent of a child if no managing conservator or guardian of the person of the child has been appointed, the managing conservator of a child or a guardian of a child if a managing conservator or guardian has been appointed for the child, a possessory conservator of a child if the child is absent from the possessory conservator of the child at a time when the possessory conservator is entitled to possession of the child and the child is not believed to be with the managing conservator, or any other person who has assumed temporary care and control of a child if at the time of disappearance the child was not living with his parent, guardian, managing conservator, or possessory conservator.

(7) "Clearinghouse" means the missing children and missing persons information clearinghouse.

(8) "Law enforcement agency" means a police department of a city in this state, a sheriff of a county in this state, or the Department of Public Safety.

(9) "Possible match" occurs if the similarities between an unidentified body and a missing child or person would lead one to believe they are the same person.

(10) "City or state agency" means an employment commission, the Texas Department of Human Resources, the State Department of Highways and Public Transportation, and any other agency that is funded or supported by the state or a city government.

Sec. 74.002. **MISSED CHILDREN AND MISSING PERSONS INFORMATION CLEARINGHOUSE.** (a) The missing children and missing persons information clearinghouse is established within the Department of Public Safety.

(b) The clearinghouse is under the administrative direction of the director of the department.

(c) The clearinghouse shall be used by all law enforcement agencies of the state.

Sec. 74.003. **FUNCTION OF CLEARINGHOUSE.** (a) The clearinghouse is a central repository of information on missing children and missing persons.

(b) The clearinghouse shall:

(1) establish a system of intrastate communication of information relating to missing children and missing persons;

(2) provide a centralized file for the exchange of information on missing children, missing persons, and unidentified dead bodies within the state;

(3) communicate with the national crime information center for the exchange of information on missing children and missing persons suspected of interstate travel;

(4) collect, process, maintain, and disseminate accurate and complete information on missing children and missing persons;

(5) provide a statewide toll-free telephone line for the reporting of missing children and missing persons and for receiving information on missing children and missing persons; and

(6) provide and disseminate to legal custodians, law enforcement agencies, and the Central Education Agency information that explains how to prevent child abduction and what to do if a child becomes missing.

Sec. 74.004. **REPORT FORMS.** (a) The Department of Public Safety shall distribute missing children and missing person report forms.

(b) A missing child or missing person report may be made to a law enforcement officer authorized by that department to receive reports in person or by telephone or other indirect method of communication and the officer may enter the information on the form for the reporting person. A report form may also be completed by the reporting person and delivered to a law enforcement officer.

Sec. 74.005. **DISTRIBUTION OF INFORMATION.** (a) The clearinghouse shall print and distribute posters, flyers, and other forms of information containing descriptions of missing children.

(b) The clearinghouse shall also provide to the Central Education Agency information about missing children who may be located in the school systems.

(c) The clearinghouse may also receive information about missing children from the Central Education Agency and from school districts.

Sec. 74.006. **RELEASE OF DENTAL RECORDS.** (a) At the time a report is made for a missing child, the person to whom the report is given shall give or mail to the reporter a dental record release form. The officer receiving the report shall endorse the form with the notation that a missing child report has been made in compliance with this chapter. When the form is properly completed by the reporter, and contains the endorsement, the form is sufficient to permit any dentist or physician in this state to release dental records relating to the child reported missing.

(b) *At any time a report is made for a missing person the law enforcement officer taking the report may complete a dental release form that states that the person is missing and that there is reason to believe that the person has not voluntarily relocated or removed himself from communications with others and that authorizes the bearer of the release to obtain dental information records from any dentist or physician in this state.*

(c) *Any person who obtains dental records through the use of the form authorized by this section shall send the records to the clearinghouse.*

(d) *The judge of any court of record of this state may for good cause shown authorize the release of dental records of a missing child or missing person.*

(e) *A dentist or physician who releases dental records to a person presenting a proper release executed or ordered under this section is immune from civil liability or criminal prosecution for the release of those records.*

Sec. 74.007. MISSING CHILDREN PROGRAM. (a) *The Central Education Agency shall develop and administer a program for the location of missing children who may be enrolled within the Texas school system, including nonpublic schools, and for the reporting of children who may be missing or who may be unlawfully removed from schools.*

(b) *The program shall include the use of information received from the missing children and missing persons information clearinghouse and shall be coordinated with the operations of that information clearinghouse.*

(c) *The State Board of Education may adopt rules for the operation of the program and shall require the participation of all school districts and accredited private schools in this state.*

Sec. 74.008. LAW ENFORCEMENT REQUIREMENTS. *All Texas law enforcement agencies, on receiving a report of a missing child or a missing person, shall immediately enter the name of the child or person into the clearinghouse with all available identifying features such as dental records, fingerprints, other physical characteristics, and a description of the clothing worn when last seen. Information not immediately available shall be obtained by the agency and entered into the clearinghouse as a supplement to the original entry as soon as possible. All Texas law enforcement agencies are required to enter information about all unidentified bodies into the clearinghouse. The law enforcement agencies shall enter, as soon as practical, all available identifying features of the unidentified body (fingerprints, dental records, any unusual physical characteristics, and a description of the clothing found on the body) into the clearinghouse.*

Sec. 74.009. ATTORNEY GENERAL TO REQUIRE COMPLIANCE. *The attorney general shall require each law enforcement agency to comply with this chapter and may seek writs of mandamus or other appropriate remedies to enforce this chapter.*

Sec. 74.010. MISSING CHILDREN INVESTIGATIONS. *On the written request made to a law enforcement agency by a parent, foster parent, managing or possessory conservator, guardian of the person or the estate, or other court-appointed custodian of a child whose whereabouts are unknown, the law enforcement agency shall request from the missing children and missing persons information clearinghouse information concerning the child that may aid the person making the request in the identification or location of the child.*

Sec. 74.011. REPORT OF INQUIRY. *A law enforcement agency to which a request has been made under Section 74.010 of this code shall report to the parent on the results of its inquiry within 14 days after the day that the written request is filed with the law enforcement agency.*

Sec. 74.012. INFORMATION TO CLEARINGHOUSE. *Each law enforcement agency shall provide to the missing children and missing persons information clearinghouse any information that would assist in the location or identification of any missing child who has been reported to the agency as missing.*

Sec. 74.013. CROSS-CHECKING AND MATCHING. (a) *The clearinghouse shall cross-check and attempt to match unidentified bodies with missing children or missing persons. When the clearinghouse discovers a possible match between an unidentified body and a missing child or missing person, the Department of Public Safety shall notify the appropriate law enforcement agencies.*

(b) *Those law enforcement agencies that receive notice of a possible match shall make arrangements for positive identification and complete and close out the investigation with notification to the clearinghouse.*

Sec. 74.014. AVAILABILITY OF INFORMATION THROUGH OTHER AGENCIES. (a) *On the request of any law enforcement agency a city or state agency shall furnish the law enforcement agency with any information about a missing child or missing person that will assist in completing the investigation.*

(b) *The information given under Subsection (a) of this section is confidential and may not be released to any other person outside of the law enforcement agency.*

SECTION 2. Chapter 450, Acts of the 68th Legislature, Regular Session, 1983 (Article 5143g, Vernon's Texas Civil Statutes), is repealed.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 17, 1985, by a non-record vote; House concurred in Senate amendments to H.B. No. 248 on May 6, 1985, by the following vote: Yeas 144, Nays 0, 1 present, not voting; passed by the Senate, with amendments, on May 1, 1985, by the following vote: Yeas 31, Nays 0.

Approved: May 22, 1985

Effective: Immediately